

REMARKS

Claims 1-3 and 10-20, and 23-39 are pending. Claims 1-3, 6, 8, and 10-39 were rejected. Claims 1-3 and 10-19 have been amended. Claims 6, 8, and 21-22 have been canceled. As amended and canceled, reconsideration and allowance are respectfully requested.

Examiner Interview

Applicant thanks Examiners Michael J. Fisher and Dean Nguyen for the time which they spend discussing this application over the telephone with applicant's attorney Marc E. Brown on February 17, 2009.

During this conference, an amended version of claim 1 was discussed. Concern was expressed that the information in the database might be non-functional descriptive material and thus may not be entitled to limiting effect.

Applicant has now amended claim 1¹ to make clear that this data is functional and thus limits the scope of the claim. For example, amended claim 1 now makes clear that contact information in the database is used to locate associations between a prospective purchaser and contacts the prospective purchaser had with a first and second dealer. The contact information is also used to locate associations between contacts which the prospective customer had and the reasons for these contacts. The located reasons are then used by the computer system as a basis for determining which of the two located dealers should be give preference in the way referral information is organized or otherwise presented, and for communicating the information with an organization or presentation which provides this preference. Thus, the reasons determine the way referral information is organized or otherwise presented – i.e., they have a clear functional role in the process.

¹ The amendments are supported, for example, by Figs. 2 and 3, the text which describes these figures, and paragraph [0059].

Claim Rejections – 35 USC § 103

Claims 1-3, 6, 8 and 10-39 were rejected under 35 U.S.C. 103(a) as being unpatentable over Grosser (U.S. 6,826,552) in view of Chislenko et al (U.S. 6,041,311) ("Chislenko"). Claims 1-3 and 10-19 have been amended. Claims 6, 8, and 21-22 have been canceled. As amended and canceled, this rejection is respectfully traversed and reconsideration is requested.

Amended claim 1 is directed to an automated method for referring a prospective customer to one or more prospective dealers of automobiles and/or automobile services. The method uses a computer system in conjunction with a database of contact information.

The prospective customer is prompted to enter his identify and location. This information is received. A database is searched to identify a first and a second dealer that each had contact with the prospective customer. The second dealer is further from the prospective customer than the first dealer.

A reason for each contact is also located in the database. The located reason for the contact with the first dealer is for purchasing a vehicle; and the located reason for the contact with the second dealer is for servicing a vehicle.

A determination is then made as to which of the located dealers should be given preference over the other in a communication to the prospective customer which refers the prospective customer to at least one of them. This determination is based on the located reasons the person had contacts with the located dealers (the reasons are therefore have a clear functional purpose). The computer system is programmed to give preference to a contact for the reason of purchasing a vehicle as compared to the reason of servicing a vehicle. Thus, the determination results in the second dealer being given preference over the first dealer because of the programmed preference as applied to the reasons in the database.

Information is then communicated to the prospective customer which refers the prospective customer to at least the second dealer. The information is organized or

otherwise presented in a manner that gives preference to the second dealer over the first dealer, notwithstanding that the second dealer is further from the prospective customer than the first dealer. This organization is but another clear functional purpose of the reasons for the contacts.

Such an automated method is neither disclosed nor suggested by Grosser or Chislenko, either alone or in combination. Nor were the differences between amended claim 1 and these references obvious.

Grosser is an example of a system that made referrals merely based on geographic location. Information about a user is entered. See Col. 26, line 60 – Col. 27, line 28. The user specifies a geographic area within which the user is willing to purchase a car. See Col. 28, lines 57-63. The system then presents the user with a choice of dealers in that geographic area. *Id.* As correctly recognized by Examiner, Grosser gives no consideration whatsoever to contacts which the user had with dealers, let alone the reasons for those contacts.

Chislenko falls far short of making up for these gaping deficiencies in Grosser. Chislenko recommends items to purchase, see Abstract and col. 11, line 11, not dealers to visit. These recommendations are based on items which other users with similar profiles have favorably rated. See, *e.g.*, col. 11, lines 9-24. Favorable ratings for items may be inferred when a user enters a bookmark to a webpage displaying the item and/or views the webpage for a long time. See, *e.g.*, col. 4, lines 14-20 and 40—45. However, Chislenko does not give preference to one dealer over another – a fundamental function of amended claim 1.

Modifying Grosser to include the product-recommendation feature of Chislenko also falls far short of amended claim 1. The combined method still does not automatically recommend a dealer whom the prospective customer had contacted to purchase a vehicle in preference to a dealer whom the prospective customer had contacted to service a vehicle. Nor does the office action set forth any reason as to why such a substantial difference was merely an obvious difference. As such, the rejection of amended claim 1 should be withdrawn. See, *e.g.*, M.P.E.P. 2141 (“The key to

supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.”)

Claim 20 is a system counterpart to automated method claim 1 and is patentable in view of the applied references for comparable reasons.

Claim 23 gives preference to dealers that had a prior contact with the customer over dealers that are closer to the customer. The closer dealer is given preference only if information about a contact with a more distant dealer does not exist. Otherwise, the more distant dealer is given preference. The fact that a customer might record his likes and dislikes of various dealers does not constitute a reason that demonstrates that this innovative approach to providing automated referrals was obvious.

Claim 38 is system claim similar to amended claim 1, except that it gives preference to dealers that had a prior contact for one reason as compared to other reasons, without specifying each reason. It is patentable in view of the applied references for reasons comparable to those set forth about in connection with claim 1.

Claim 39 is similar to Claim 23 and is patentable in view of the applied references for comparable reasons.

The remaining claims are dependent upon one of the independent claims discussed above and thus are also patentable in view of the applied references. These claims also recite additional features which further distinguish them from these references.

Claims 12 and 30, for example, divide the results into different sets, each set listing dealers that had contact with the user for the same reason. The feature is also missing from Grosser and Chislenko, either alone or in combination. Further, the Examiner merely states that this feature was obvious, but offers no reason why. Again, therefore, a prima facie showing of obviousness has not been established. See, e.g., M.P.E.P 2142 (quoted above).

Claims 18, 19, 36 and 37 also require preference to be given to a contact having the most recent date when contacts for the same reason with different dealers are located. Such a multi-tier approach to preferences is also missing from Grosser and Chislenko, either alone or in combination. Also, none of the reasons offered by the Examiner explain why this was merely an obvious difference. The Examiner states that the most recent dealers are the ones in which the customer has shown an interest. This is not correct. The customer also showed an interest in dealers with more vintage contacts. The Examiner also states that it would have been obvious to allow the user to have many or few contacts. Yet, this is irrelevant to whether it would have been obvious to have given preference to the most recent contacts.

Conclusion

For the foregoing reasons, Applicant respectfully submits that this Amendment places this application in condition for allowance and early notice of the same is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account s501946 and please credit any excess fees to such deposit account.

Respectfully submitted,

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